

APPENDIX F

DRAFT GARVEE LANGUAGE

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One-time issuance of \$40 million
Existing Bridges and Major Roads Only
Up to 20 year bond terms

**An Act to Allow More Rebuilding of Bridges and Major Roads
By Authorizing Limited and Prudent GARVEE Financing**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. Definitions. As used in this Act, unless the context otherwise indicates, the following terms have the following meanings.

1. Bank. "Bank" means the Maine Municipal Bond Bank.

2. GARVEE. "GARVEE" means grant anticipation revenue vehicle debt financing.

3. Qualified transportation projects. "Qualified transportation projects" mean projects to reconstruct, rehabilitate, and/or replace existing bridges and existing arterial and major collector highways that meet eligibility requirements of the Federal Highway Administration. "Qualified transportation projects" do not include projects that predominately consist of a new highway and/or a new bridge on a new location, unless approved by the Legislature.

4. Revenues. "Revenues" means, in the case of bonds or notes issued by the bank to finance the qualified transportation projects, payments of funds derived from the Federal Highway Administration and other investments, gifts, grants, contributions, appropriations, income and any other amounts pledged to secure payment of such bonds or notes.

Sec. 2. Qualified transportation projects costs. Costs of the qualified transportation projects include, without limitation, costs related to:

- A. The purchase price or acquisition of any property or interests in those properties or other rights necessary or convenient for such projects;
- B. The study, permitting and engineering of any such projects, including the preparation of plans and specifications, surveys and estimates of cost;
- C. Construction, reconstruction, paving, repaving, building, alteration, repair, restoration, environmental review or remediation, enlargement or other improvement, including all labor, materials, machinery, fixtures and equipment, including rolling stock or vehicles;
- D. Engineering, architectural, legal and other professional services;
- E. Reserves, insurance, letters of credit or other financial guarantees for payment of future debt service on bonds or notes; and
- F. All other costs or expenses necessary or convenient to such projects, including the financing or refinancing of the projects.

Sec. 3. GARVEE financing authorized. Notwithstanding any other provision of law, upon certification, the bank shall issue from time to time up to **forty million**

dollars (\$40,000,000.00) of GARVEE bonds to be repaid solely from annual federal transportation appropriations for funding for qualified transportation projects.

The bank shall issue GARVEE bonds from time to time pursuant to a resolution to be adopted by the bank. The GARVEE bonds issued must be secured pursuant to a pledge and certificate issued by the Department of Transportation and approved by the State Budget Officer. The pledge and certificate must contain provisions that dedicate and pledge receipt of future federal transportation funds to secure the payment of the GARVEE bonds, including principal, interest and issuance costs. The terms of the GARVEE bonds, their repayment schedule and other provisions to facilitate their creditworthiness are determined by the bank in consultation with the Department of Transportation and the State Budget Officer. The pledge and certificate are a part of the contract with the holders of the GARVEE bonds to be authorized.

The GARVEE bonds must be in the form, bear the date or dates, mature at the time or times and have such other terms as determined by the bank and approved by the Department of Transportation and the State Budget Officer, except that a GARVEE bond may not mature more than 20 years from the date of its issue.

GARVEE bonds issued under the provisions of this Act do not constitute a debt or liability of the State or of any political subdivision of the State, or a pledge of the full faith and credit of the State or of any political subdivision of the State, but are payable solely from the funds and revenues pledged for that purpose.

The proceeds from the sale of the GARVEE bonds are to be deposited into the appropriate highway fund capital account or other appropriate dedicated revenue account.

Sec. 4. Maine Municipal Bond Bank provisions. The bank has all the powers and duties provided by the Maine Revised Statutes, Title 30-A, chapter 225, modified and supplemented as provided in this section for the purposes set forth in this section. All words, terms and phrases have the same meaning as provided in Title 30-A, chapter 225, except as modified and supplemented in this section for the purposes set forth in this section.

1. Lending and borrowing powers. The bank may assist the State by borrowing money to finance or refinance from time to time all or a portion of the costs of the qualified transportation projects and make the proceeds of such borrowing available to the Department of Transportation at terms agreed upon by the bank, the State Budget Officer and the Department of Transportation. The principal of and interest on any bonds or notes issued by the bank to finance or refinance the qualified transportation projects must be secured by a pledge of funds paid by the Federal Highway Administration and any matching funds of the State as necessary and legally available that are allocated for such purpose on an annual basis by the Department of Transportation in its sole discretion and may further be secured by a pledge of any rights, grants, reserves, contracts, agreements or other revenues or property as may be determined by resolution of the bank. Bonds, notes, leases, agreements or other forms of debt or liability entered into or issued by the bank under this section are not in any way a debt or liability of the State and do not constitute a loan of the credit of the State or create any debt or liability on behalf of the State or constitute a pledge of the faith and credit of the State. Each bond, note,

lease, agreement or other evidence of debt or liability entered into by the bank must contain a statement to the effect that the bank is obligated to pay the principal, interest, redemption premium, if any, and other amounts payable solely from the sources pledged for that purpose by the bank and that neither the faith and credit nor the taxing power of the State is pledged to the payment of the principal, interest, premium, charge, fee or other amount on the bond, note, lease, agreement or other form of indebtedness.

2. Powers with respect to qualified transportation projects. In addition to all other powers elsewhere granted to the bank, the bank may, with respect to the qualified transportation projects:

- A. Acquire title to, or an interest in, the qualified transportation projects;
- B. Make and execute contracts and all other instruments, including any amendments or modifications to the extent permitted under its contract with holders of its bonds or notes, with the State, the Federal Highway Administration or any other legal entity in furtherance of the purposes of this Act; and
- C. Lease the qualified transportation projects to the State or any agency, political subdivision, instrumentality or department of the State to further the purposes of this Act, as long as the obligation of the State or of any such agency, political subdivision, instrumentality or department to make any rental or other payments are considered executory only to the extent of funds paid by the United States Department of Transportation and any matching funds of the State as necessary and legally available that are allocated for such purpose on an annual basis by the Department of Transportation in its sole discretion, as long as the liability on account of the State or any such agency, political subdivision, instrumentality or department is not incurred by the State or any such agency, political subdivision, instrumentality or department beyond the money available for that purpose.

3. Pledge of federal highway funds. The Department of Transportation is authorized to transfer, assign or pledge any or all of the funds paid to it, directly or indirectly, by the Federal Highway Administration with respect to the qualified transportation projects, together with any matching funds of the State as necessary and legally available that are allocated for such purpose on an annual basis by the Department of Transportation in its sole discretion. Any such pledge does not constitute a debt or liability on behalf of the State or of any political subdivision of the State or a loan of the credit of the State or of any political subdivision of the State or a pledge of the faith and credit of the State or of any political subdivision of the State. A decision by the Department of Transportation not to allocate such federal transportation funds or state matching funds as necessary and legally available in any given fiscal year for the payment of such bonds or notes or related costs and expenses may not be construed to constitute an action impairing any contract entered into by the bank under this Act.

4. Contracts are subject to continuing federal appropriations of federal transportation funds. Every contract relating to the issuance of bonds or notes to finance all or a part of the costs of the qualified transportation projects must provide that all financial obligations of the State or of any agency, political subdivision, instrumentality or department of the State in regard to the portion of the principal of and interest on such bonds or notes and the related costs and expenses that may be

paid from federal transportation funds pursuant to federal law and any agreement between the Federal Highway Administration or any agency of the Federal Highway Administration and the Department of Transportation that is or is to be the initial recipient of such federal transportation funds are subject to continuing federal appropriations of federal transportation funds at a level equal to or greater than the amount needed to pay the federal share of principal, interest and costs and expenses on such bonds or notes.

5. State agency powers. Each agency, instrumentality, department or other political subdivision of the State, for the purpose of aiding and cooperating in the financing, construction, operation or maintenance of the qualified transportation projects, has the power:

- A. To sell, lease, loan, donate, grant, convey, pledge, assign or otherwise transfer to the bank any real or personal property or interests in any real or personal property; and
- B. To enter into agreements, including loan and pledge agreements, with any person for the joint financing, construction, operation or maintenance of the qualified transportation projects and to agree to make payments, without limitation as to amount except as set forth in the agreement, from revenues received in one or more fiscal years by the Department of Transportation or any person to defray the costs of the financing, construction, operation or maintenance of the qualified transportation projects.

To assist in the financing, construction, operation or maintenance of the qualified transportation project, any governmental unit or political subdivision may, by contract, pledge, assign or otherwise transfer to the Department of Transportation or otherwise as directed by the bank all or a portion of federal transportation funds paid to the governmental unit or political subdivision or the revenues from any other legally available source.

6. Corporate powers. In addition to all other powers granted to the bank, for the purpose of carrying out this Act, the bank may:

- A. Make, enter into and enforce all contracts or agreements necessary, convenient or desirable for the purposes of financing or refinancing the qualified federal transportation projects;
- B. Invest any funds or money of the bank not then required for funding costs of the qualified transportation project in the same manner as permitted for the investment of funds belonging to the State or held by the Treasurer of State, except as otherwise permitted or provided by this Act; and
- C. Fix and prescribe any form of application or procedure to be required of the State or of any agency, political subdivision, instrumentality or department of the State with respect to the qualified transportation projects and fix the terms and conditions of the qualified transportation projects and may enter into agreements with the State or any agency, political subdivision, instrumentality or department of the State or of any political subdivision of the State in connection with the qualified transportation projects.

7. Exception to prohibited acts and limitation of powers. Notwithstanding the provisions of the Maine Revised Statutes, Title 30-A, section 5958, the bank may make loans to the State or any agency, political subdivision, instrumentality or

department of the State in connection with the financing of the qualified transportation projects.

8. Bonds and notes of bank. Notwithstanding the provisions of the Maine Revised Statutes, Title 30-A, section 6003, the bank may issue its bonds from time to time in any principal amounts that it considers necessary to provide funds for any of the purposes authorized by this Act, including the financing or refinancing of all or a portion of the costs of the qualified transportation projects.

9. Receipt of federal appropriation money. The Treasurer of State may receive from the Federal Government any amount of money as appropriated, allocated, granted, turned over or in any way provided for the purposes of this Act. In connection with the financing of the qualified transportation projects, these amounts must be credited to and deposited in the Highway Fund and are available to the bank.

10. Agreements with financial institutions. Notwithstanding the provisions of the Maine Revised Statutes, Title 30-A, section 6019, the bank may enter into any agreements or contracts with any commercial banks, trust companies or banking or other financial institutions within or outside the State that are necessary, desirable or convenient in the opinion of the bank to provide any other services to the bank to assist the bank in effectuating the purposes of this Act.

11. Remedies of holders of bonds and notes. In addition to all other rights or remedies set forth in the Maine Revised Statutes, Title 30-A, section 6023, subsection 2, the trustee as appointed pursuant to that section may, and upon written request of the holders of 25% in principal amount of all bonds then outstanding that have been issued to finance or refinance all or a portion of the costs of the qualified transportation projects shall, in the trustee's or the bank's own name, by mandamus or other suit, action or proceeding at law or in equity, enforce all rights of such bondholders, including the right to require the bank to collect payments and other amounts and to collect interest and amortization payments under agreements payable to the bank and pledged to payment of such bonds, adequate to carry out any agreement as to, or pledge of, those payments and other amounts and of such interest and amortization payments and to require the bank to carry out any other agreements with the bondholders and to perform its duties under this Act.

Sec. 5. Appropriations and allocations. Allocations will be created by Financial Orders.